

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

DEC 23 2016

JULIA Q. DUDLEY, CLERK
BY: 
DEPUTY CLERK

UNITED STATES OF AMERICA,)

v.)

DAVID WILLIAM BROWN,)

Petitioner.)

Case No. 7:02-CR-024

By: Michael F. Urbanski
United States District Judge

ORDER

For the reasons set forth in the accompanying memorandum opinion, the court

ORDERS as follows:

- (1) Petitioner David William Brown's habeas corpus petition, ECF No. 160, is **GRANTED** and the United States' motion to dismiss, ECF No. 169, **DENIED**.
- (2) Petitioner's sentence on Count Two imposed pursuant to the Armed Career Criminal Act is **VACATED**.
- (3) Petitioner will be resentenced on both Count One and Count Two on a date to be determined by the Clerk in Roanoke, Virginia. Counsel are **DIRECTED** to promptly contact the Clerk to schedule an expedited sentencing hearing.
- (4) The United States Marshal is **DIRECTED** to facilitate Petitioner's transportation and appearance at his resentencing.
- (5) An expedited Amended Presentence Investigation Report **SHALL** be prepared in advance of sentencing reflecting this Court's ruling and without application of the Armed Career Criminal Act. Any objections or memoranda regarding sentencing shall be filed on an expedited basis and no later than seven days prior to resentencing.

The Clerk is **DIRECTED** to file this Order and provide copies to counsel and the United States Probation Office.

It is **SO ORDERED**.

Entered:

12/23/2016

/s/ Michael F. Urbanski

Michael F. Urbanski
United States District Judge